

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ABBOTT DIABETES CARE INC. and  
ABBOTT LABORATORIES,

Plaintiffs,

v.

ROCHE DIAGNOSTICS CORP., and BAYER  
HEALTHCARE LLC,

Defendants.

Case No. C05-03117 MJJ

**[PROPOSED] ORDER GRANTING  
LEAVE TO BAYER  
HEALTHCARE LLC AND ROCHE  
DIAGNOSTICS CORP. TO FILE  
AMENDED COUNTERCLAIMS  
AND AMENDED PRELIMINARY  
INVALIDITY CONTENTIONS**

**[PROPOSED] ORDER GRANTING DEFENDANTS LEAVE TO FILE AMENDED ANSWERS, COUNTERCLAIMS, AND  
PRELIMINARY INVALIDITY CONTENTIONS**

On July 25, 2006 at 9:30 A.M. came on for hearing the Defendant Bayer Healthcare LLC's ("Bayer") Motion for Leave to Amend its Answer, Affirmative Defenses, Counterclaims and Preliminary Invalidity Contentions, and Defendants Roche Diagnostics Corporation and Roche Diagnostics Operations, Inc's (together "Roche") Motion for Leave to Amend its Answer to First Amended Complaint, Affirmative Defenses, Counterclaims and Preliminary Invalidity Contentions. All parties were represented by counsel.

After full consideration of the points and authorities and all supporting documents submitted by counsel, as well as counsel's oral argument, and good cause appearing therefor, Defendants' Motions are GRANTED.

It is further ORDERED that:

1. Defendant Bayer is granted leave to amend its Answer, Affirmative Defenses, and Counterclaims to include the allegations, claims and defenses that are set forth in Exhibit 1 to Bayer's motion;

2. Defendant Bayer is further granted leave to amend its Preliminary Invalidity Contentions to include the additional contentions set forth in Exhibit 2 to Bayer's motion;

3. Defendant Roche is granted leave to amend its Answer, Affirmative Defenses, and Counterclaims to include the additional allegations, claims and defenses that are set forth in Exhibit A to Roche's motion;

4. Defendant Roche is further granted leave to amend its Preliminary Invalidity Contentions to include the additional contentions set forth in Exhibit B to Roche's motion;

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~~PROPOSED~~ ORDER GRANTING DEFENDANTS LEAVE TO FILE AMENDED ANSWERS, COUNTERCLAIMS, AND PRELIMINARY INVALIDITY CONTENTIONS

1           5. Defendants Roche and Bayer are further granted leave to amend their Preliminary  
2 Invalidity Contentions in view of the Amended Preliminary Infringement Contentions to be filed  
3 by Plaintiff as directed by the court's order of July 31. Defendants' Amended Preliminary  
4 Invalidity Contentions shall be filed on or before 45 days after service of Plaintiff's Amended  
5 Infringement Contentions.

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7           Dated: 8/11/2006

8           By:



9           The Honorable Martin J. Jenkins  
10           United States District Court Judge  
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